

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

HUAWEI TECHNOLOGIES CO., LTD., et  
al.,

Defendants.

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**POLLAK**, Chief United States Magistrate Judge:

**ORDER**  
18 CR 457 (S-3) (AMD) (CLP)

On December 2, 2020, the Court Ordered the government to produce certain statements to the defendants, pursuant to Federal Rule of Criminal Procedure 16, no later than May 11, 2021. (See 12/2/2020 Order at 8). On May 11, 2021, the government informed the Court that it had completed its review process for Rule 16 statements and had produced all such statements in its possession. (See Gov. Ltr.<sup>1</sup> at 5). The government withheld certain documents as outside the scope of Rule 16 discovery and provided samples of such statements to the Court for *in camera* review. (Id. at 2).

Under Rule 16(a)(1)(C) of the Federal Rules of Criminal Procedure, only statements of individuals able to bind a corporate defendant regarding the subject matter of their statements, and statements of individuals who were personally involved in the alleged conduct and able to bind the corporate defendant regarding that conduct, are subject to production. Fed. R. Crim. P. 16(a)(1)(C); see also United States v. Chalmers, 410 F. Supp. 2d 278, 291 (S.D.N.Y. 2006).

In its May 11, 2021 letter, the government represents that none of the witnesses whose statements have been withheld and which are before the Court for review were personally

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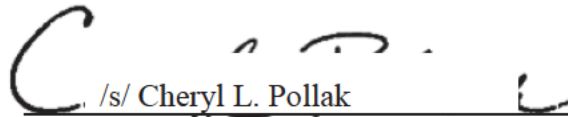
<sup>1</sup> Citations to “Gov. Ltr.” refer to the Government’s Letter regarding Corporate Discovery Review dated May 11, 2021, ECF No. 282.

involved in any illegal conduct, nor were they able to bind the company regarding the subject matter of their statements. (See Gov. Ltr. at 2). The Court has reviewed the statements submitted for *in camera* review and, based on the government's representations regarding the role played by these witnesses and their responsibility within the company, finds the government's decision to withhold these statements to be consistent with United States v. Chalmers.

The Clerk is directed to send copies of this Order to the parties either electronically through the Electronic Case Filing (ECF) system or by mail.

**SO ORDERED.**

Dated: Brooklyn, New York  
May 18, 2021

  
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Cheryl L. Pollak  
Chief United States Magistrate Judge  
Eastern District of New York